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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/651,127	08/30/2000	Petter Bragd	010315-089	1058

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EXAMINER	
WEBB, JAMISUE A	

ART UNIT	PAPER NUMBER
3761	14

DATE MAILED: 06/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/651,127	Applicant(s) BRAGD ET AL.	
	Examiner Jamisue A. Webb	Art Unit 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 March 2003* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4 and 6-17* is/are pending in the application.

4a) Of the above claim(s) *7-10* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,6 and 11-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☒ The proposed drawing correction filed on *06 January 2003* is: a)☐ approved b)☒ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☒ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/26/03 has been entered.

Election/Restrictions

2. Applicant's election with traverse of the restriction in Paper No. 9 is acknowledged. The traversal is on the ground(s) that due to the fact that the independent claim 1, now states that the foam is a regenerated cellulose material, then the article must now be made using the process in Claim 1, therefore the restriction should be withdrawn. This is not found persuasive because although the article claims has been amended to include the regenerated cellulose, the article can be made by a different method, then what is in Claim 7, and the method in Claim 7 will form a different product then the article in Claim 1. The article in Claim 1 does not require that the two layers be formed separately and then placed on top of each other, the article can be made by a process where they form the foam material on top of each other simultaneously at the same time, if two foam materials are immiscible, then they can be formed one on top of the other. The method can also form a different article, due to the fact that the method states that the layers have

to be "two different material", Claim 1, can still be one material, with different pore sizes, it does not require two different materials.

The requirement is still deemed proper and is therefore made FINAL.

Priority

3. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Sweeden on 8/30/99. It is noted, however, that applicant has not filed a certified copy of the sweedish application as required by 35 U.S.C. 119(b).

Drawings

4. The proposed drawing correction filed on 1/6/03 has been disapproved because it is not in the form of a pen-and-ink sketch showing changes in red ink or with the changes otherwise highlighted. See MPEP § 608.02(v).

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, at least two integrated layers where there is no clear partitioning line between the layers must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. The drawings show three separate layers with clear partitioning lines separating the layers.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

6. Claim13 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 13, dependent from Claim 1, states that the foam is regenerated cellulose, this was added to Claim 1 in the amendment filed 1/6/03, therefore Claim 13, fails to now further limit Claim 1.

7. Claim 17 is objected to because of the following informalities: Newly added Claim 17, adds the phrase "foram material", due to the fact that this is not a work, the examiner assumes this is a typographical error and it should be "foam material". Appropriate correction is required.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 1-6 and 11-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rezai et al. (5,713,881) in view of Cohen et al. (5,728,083).

11. With respect to Claims 1, 2, 6 and 11-17: Rezai discloses an absorbent structure used in a such things as a diaper or incontinence guard (column 1) that has multiple integrated layers (see figures 1-6), in which has one layer (72) made of an cellulosic foams made of regenerated rayon, which is viscose (column 20, line 36 and column 21, lines 21-23), and another layer (71) which is a mixture of an absorbent foam such as rayon (column 11, lines18-19) and a superabsorbent material. (column 11, lines 57-62). Rezai discloses that the layers of the article are crosslinked together (column 22, lines 45-62). It is the examiner's position that crosslinking causes the layers of the article to be integrated together so that there is no clear partitioning line between the layers. Rezai also discloses the absorbent structure being compressed and expands when wet (column 37, lines 54-57).

12. Rezai discloses controlling the pore size of the cellulosic layer, however does not disclose the use of each layer being of differing pore sizes. Cohen, discloses the use of a multi-layered absorbent article where each layer has an average pore size no greater than the layer immediately proceeding it toward the liquid accepting surface (column 4, lines 20-23). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the layers of Rezai, impart a lower average pore size then the layer directly above, in order to improve the sequestering of liquids within the absorbent structure. (see Cohen, column 4).

13. With respect to Claim 3: Rezai discloses the substrate layer has zero superabsorbent, and the second layer being a mixture of foam and superabsorbent, therefore different amounts.

14. With respect to Claim 4: Rezai discloses the substrate layer being a layer on top of the absorbent foam and superabsorbent layer, and Cohen discloses the pore size decreasing from top to bottom. Therefore, when the substrate layer is on the bottom of the absorbent foam and superabsorbent layer, then the absorbent foam and superabsorbent layer (which contains more superabsorbent material then the substrate layer, which has none) has a larger pore size. When the substrate is on the top of the absorbent foam and superabsorbent layer, then the absorbent foam and superabsorbent layer, which contains the greatest amount of superabsorbent, has the smallest pore size.

15. With respect to Claim 5: See Rezai, column 21, lines 24-25.

Response to Arguments

16. Applicant's arguments filed 1/6/03 and 3/26/03 have been fully considered but they are not persuasive.

17. With respect to Applicant's arguments that Rezai does not disclose two foam layers. Rezai discloses an optional component, which can be a non-absorbent-gelling material. By this, it does not mean the material is non-absorbent, but that the material is non-gelling. This can be seen since it further goes on and states fibers used in any type of conventional absorbent products, which includes cellulose fibers, which are absorbent fibers. Even if this was not the case, Rezai discloses that these materials are optional. Rezai further goes on and states that a preferred embodiment includes a layer of cellulose foam and a superabsorbent material. The

claims do not use the word "consist", they use the word comprise, which is an open ended claim and leaves room for other components besides only foam. The layer (71) of Rezai contains foam, therefore the examiner considers this to be a foam material, which meets the limitation of the instant invention's claims. Therefore rejections stand as stated above.

18. The applicant is arguing the combination of references cased on the fact that Rezai does not disclose the two integrated layers. As stated above, the examiner considers Rezai to disclose this limitation, therefore all rejections stand as stated.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamisue A. Webb whose telephone number is (703) 308-8579. The examiner can normally be reached on M-F (7:30 - 4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703)308-1957. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

jaw
June 3, 2003

WEILUN LO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700